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June 29, 1988

Mr. C. DeMont Judd, Jr.
Attorney at Law
2650 Washington Boulevard #102
OGDEN UT 84401

Re: Meadowville Irrigation Rights

Dear DeMont:

I have met with officials from the State Engineer's Office and may now respond to your letter of May 17, 1988. The general consensus is that because water distribution in Meadowville is a continual problem, the office will issue an Order of Distribution to clarify the more unresolved and troublesome issues.

With regards to the "illegal" reservoir of J.N. Cook, the reservoir was most likely characterized by Judge Jones in 1956 as "illegal" because there was no approved application for the water right and storage. In 1958, J.N. Cook amended his 1956 application (No. 28020) to specifically include the 15 acre-foot reservoir already constructed. The application was approved March 7, 1960 and a certificate issued April 23, 1964. The illegality was corrected. It should also be noted that the date of priority is 1958 and is, of course, subject to the prior rights of all other users on the system.

Many of the remaining questions deal with procedural aspects of the general adjudication proceeding in Rich County. Mr. Weston or his predecessor in interest had ample opportunity to protest the "Red Book" which incorporated all the water claims and earlier interlocutory orders. No protest was received within the 90-day protest period. My suspicion is that no protest was lodged because the results of the earlier litigation were incorporated in the "Red Book."

The November 1969 Decree confirmed all rights which were not protested, including the Westons and Cooks. The Westons were not given notice of the 1969 hearing which resulted in the Decree because they were not protestants. The "Red Book" is now the controlling document. The State Engineer's Office will use the book as the basis for its Order of Distribution.

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The State Engineer's Office is sincere in its attempts to resolve this distribution problem as objectively and fairly as possible. Thank you for your efforts in this regard.

Sincerely,

A handwritten signature in dark ink, appearing to read "John H. Mabeey, Jr.", with a stylized, flowing script.

JOHN H. MABEY, JR.
Assistant Attorney General

JHM/ac

cc: Lee Sim, Directing Adjudications/Distribution Engineer
Robert M. Fotheringham, Area Engineer